

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/187,262
Published in the Official Gazette on July 27, 2004

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V SECRET CATALOGUE, INC.,	:	
and INTIMATE BEAUTY CORPORATION D/B/A	:	
VICTORIA'S SECRET BEAUTY,	:	
	:	
Opposers,	:	Opposition
	:	
v.	:	No.
ZOPPINI, LLC,	:	
	:	
Applicant.	:	

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NOTICE OF OPPOSITION

Opposers, V Secret Catalogue, Inc., a Delaware corporation, having its principal office and place of business at 1105 North Market Street, Wilmington, Delaware 19801 and its exclusive licensee Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, a Delaware corporation, having its principal office and place of business at 888 Seventh Avenue, New York, New York 10106 (herein "opposers") believe that they will be damaged by registration of Zoppini, LLC's United States Application Serial No. 78/187,262 to register the mark ZO ZEXY for goods in International Classes 3, 9, 24, 25 and 35, which was filed on November 20, 2002, published at page TM 178 of the Official Gazette of July 27, 2004 (Vol. 1284, No. 4), and hereby oppose the same. As grounds of opposition, opposers allege:

1. Zoppini, LLC (herein "applicant"), a Florida limited liability company, located at 110 East Broward Boulevard, Suite 1900, Fort Lauderdale, Florida 33301 is not now and never was entitled to register as a trademark the designation ZO ZEXY for which it seeks registration in its United States Application Serial No. 78/187,262, filed on November 20, 2002 published at page TM 178 of the Official Gazette of July 27, 2004 (Vol. 1284, No. 4), for the goods set forth therein in International Classes 3, 9, 24, 25 and 35.

2. Applicant is not entitled to use or register as a trademark the designation ZO ZEXY for which it seeks registration in its United States Application Serial No. 78/187,262 either on November 20, 2002, the date of filing of said application, or on July 27, 2004, the date of publication thereof in the Official Gazette.

3. Opposer, V Secret Catalogue, Inc., is the record owner and opposer, Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, is the exclusive user of the SO SEXY trademark which is the subject of United States Application Serial No. 78/094,035 to register the mark SO SEXY filed on November 19, 2001 in International Class 3 for hair products, namely, hair conditioner, hair dyes, hair glitter, hair highlighter, hair mascara, hair pomade, hair rinses, hair removing creams, hair shampoo, hair spray, hair straightener, hair styling gel and hair styling mousse in International Class 3.

4. Opposers' filing and use of the above SO SEXY

trademark pre-dates applicant's filing date of November 20, 2002. Therefore, opposers' SO SEXY trademark has priority over applicant's claim to the designation ZO ZEXY.

5. Opposer, Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, has been and now is the operator of approximately five hundred (500) VICTORIA'S SECRET BEAUTY retail stores located throughout the United States which sell, *inter alia*, opposer's SO SEXY products. In addition, opposers' SO SEXY products are sold in another approximately one thousand (1000) VICTORIA'S SECRET stores, VICTORIA'S SECRET catalog and website at www.victoriassecret.com.

6. Upon the introduction of opposers' SO SEXY trademark on the market in connection with the aforesaid goods and continuously thereafter, said trademark became and is now widely known and recognized by the public and the trade as the means by which such goods are distinguished, and their source and origin identified.

7. Applicant's goods are closely related to opposers' goods, are likely to be sold to the same class of purchasers and offered for sale through the same or similar channels of trade.

8. The designation applicant seeks to register, namely, ZO ZEXY, so resembles opposers' SO SEXY trademark, as to be likely, when applied to the goods of applicant, to cause confusion or mistake or to deceive persons by creating the erroneous impression that applicant's goods originate with, or come from the same source as opposers' goods and/or services, or are endorsed by, or are sponsored by, or are connected in some

way with opposers, and the registration thereof would be injurious to opposers.

9. Applicant's adoption and use of the designation ZO ZEXY is without the license or permission of opposers.

10. This notice of opposition is filed herewith in duplicate and accompanied by the required fee of \$3,000.00 [37 C.F.R. 2.6(1)].

WHEREFORE, opposers, V Secret Catalogue, Inc., and Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, pray that said Application Serial No. 78/187,262 be rejected and registration of the designation ZO ZEXY as a trademark to applicant be refused and denied.

Dated: New York, New York
August 13, 2004

Respectfully submitted,

COLUCCI & UMANS

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I hereby certify that this correspondence is being delivered with the United States Postal Service by First Class Mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

Frank J. Colucci
Signature
08-13-04
Date of Signature